

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Case No. 2:12-CR-113 JCM (VCF)

Plaintiff(s),

ORDER

v.

ARNOLD MYERS,

Defendant(s).

Presently before the court is Magistrate Judge Ferenbach's report and recommendation. (Doc. # 248). No objections to the report and recommendation have been filed and the deadline to do so has passed.

This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a de novo determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1).

Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. *See United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the view that district

1 courts are not required to review “any issue that is not the subject of an objection.”). Thus, if
2 there is no objection to a magistrate judge’s recommendation, then this court may accept the
3 recommendation without review. *See, e.g., Johnstone*, 263 F. Supp. 2d at 1226 (accepting,
4 without review, a magistrate judge’s recommendation to which no objection was filed).

5 Nevertheless, this court finds it appropriate to engage in a de novo review to determine
6 whether to adopt the recommendation of the magistrate judge. On July 9, 2012, defendant
7 Myers entered a plea of guilty as to one count of conspiracy to commit wire fraud and mail
8 fraud. On August 9, 2014, defendant Myers died. The government thereafter filed a motion to
9 dismiss the criminal information against Arnold Myers without prejudice under Federal Rule of
10 Criminal Procedure 48(a). (Doc. # 247).

11 Upon reviewing the recommendation and underlying briefs, and in light of plaintiff’s
12 failure to object, this court finds good cause appears to ADOPT the magistrate’s findings in full.

13 Accordingly,

14 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Magistrate Judge
15 Ferenbach’s report and recommendation (doc. # 248) be, and the same hereby, is ADOPTED.

16 IT IS FURTHER ORDERED that the government’s motion to dismiss criminal
17 information without prejudice (doc. # 247) be GRANTED.

18 DATED December 12, 2014.

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20 UNITED STATES DISTRICT JUDGE